UNITED STATES PATENT AND TRADEMARK OFFICE

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10/728,823	12/08/2003	Toshihiro Nakayama	P24358	9274

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Please find below and/or attached an Office communication concerning this application or proceeding.

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PTOL-90A (Rev. 04/07)

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Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *08 December 2003*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

     4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *12/08/2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

     a)☒ All   b)☐ Some *   c)☐ None of:

       1.☒ Certified copies of the priority documents have been received.

       2.☐ Certified copies of the priority documents have been received in Application No. _____.

       3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

     * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
     Paper No(s)/Mail Date *03/08/2004*.

4) ☐ Interview Summary (PTO-413)
     Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____ .

DETAILED ACTION

1.   This office action is responsive to communications filed on 12/08/2003.

Claims 1-18 are pending and have been examined.

2.   The information disclosure statement (I.D.S) filed on 03/08/2004 is considered.

Specification

3.   The title of the invention is not descriptive. A new title is required that is clearly

indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 112

4.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

5.   Claims **1-18** are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

With regard to claims 1, 13, 14, 15, 16, 17 and 18, it is indefinite and vague as

what applicant refers a "...predetermined network" to as. Claims 2-12 are dependent

claims of claim 1, thus they are rejected under the same rationale.

Claim Rejections - 35 USC § 102

6.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7.   Claims **1-12** are rejected under 35 U.S.C 102 (e) as being anticipated by

Konopka et al. (publication no.: US 2004/0122908 A1).

8.   With regard to claim 1 the limitations followed by "...being capable of " is

intended use of the claimed invention. Limitations directed toward the intended use are

not given patentable weight.

Consider **claim 1,** Konopka teaches a download system, comprising:

a contents server that stores a plurality of pieces of contents data (Konopka, fig.

1, server 122);

a downloading device that exchanges data with said contents server through a

predetermined network, said downloading device being capable of downloading a

desired one of the plurality of pieces of contents data (Konopka, fig. 1 PC 134);

a terminal device detachably connected to said downloading device(Konopka,

fig. 1 host device 132), said terminal device being capable of receiving the desired one

of the plurality of pieces of contents data from said downloading device; and

a database server (Konopka, fig. 1, DB 142) that stores reservation information

indicative of a piece of contents data reserved by a user of said terminal device, said

database server being capable of exchanging data with said contents server,

wherein said contents server transmits contents data corresponding to the

reservation information when said terminal device is connected to said downloading

device (Konopka, page 3, paragraph 28, noted that the server forwards the

communications to the user/host device), and

wherein said downloading device transmits the contents data received from said

contents server to said terminal device (Konopka, page 3, paragraph 28, noted that the

server forwards the communications to the user/host device).

Claims 2-12 are dependent claims of claim 1, thus they are rejected under the

same rationale.

Claim Rejections - 35 USC § 103

9.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

10.   The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1.   Determining the scope and contents of the prior art.
2.   Ascertaining the differences between the prior art and the claims at issue.
3.   Resolving the level of ordinary skill in the pertinent art.
4.   Considering objective evidence present in the application indicating
      obviousness or nonobviousness.

11.   **Claims 1-11, and 13-17** are rejected under 35 U.S.C. 103(a) as being

unpatentable over **Hunter et al. (publication no.: US 2006/0229904 A1)** in view of

Kawamata et al. (publication no.: US 2002/0025777 A1).

12.   With regard to claims 1, 13, 14, 15, 16, 17 and 18, the limitations followed by

"...being capable of " and "... capable of" are directed toward intended use of the

claimed invention. Limitations directed toward the intended use are not given patentable

weight.

With regard to claim 1, Hunter teaches a download system (Hunter, fig. 1),

comprising:

a contents server that stores contents data (Hunter, fig. 1, noted the music/data

content distribution and music content provider);

a downloading device that exchanges data with said contents server through a

predetermined network (Hunter, fig. 1, page 3, paragraph 42, and page 4, paragraph

50, noted that the user station 28 communicates with the music content provider via the

central controller system 36), said downloading device being capable of downloading a

desired one of the contents data (Hunter, page 4, paragraph 50, noted that the user

station 28 downloads digital music content);

a terminal device detachably connected to said downloading device (Hunter,

pages 9-10, paragraph 95, noted the portable player), said terminal device being

capable of receiving the desired one of the contents data from said downloading device

(Hunter, page 9, paragraph 95); and

a database server that stores reservation information indicative of a piece of contents data reserved by a user of said terminal device (Hunter, fig. 1, and page 6, paragraphs 69-70, noted the central controller system 36 holds a database of content scheduling information), said database server being capable of exchanging data with said contents server (Hunter, fig. 1, paragraph 50, noted that the content providers deliver music data to central controller 36),

wherein said contents server transmits contents data corresponding to the reservation information when said terminal device is connected to said downloading device (Hunter, page 5, paragraph 57 and page 9-10 paragraph 95, noted that the music is downloaded to the memory of the terminal device), and

wherein said downloading device transmits the contents data received from said contents server to said terminal device (Hunter, page 9-10 paragraph 95, noted that the music is downloaded to the memory of the terminal device).

However, Hunter does not explicitly teach a method dividing the contents data into a plurality of pieces of data.

In the same field of endeavor, Kawamata teaches a method dividing the contents data into a plurality of pieces of data (Kawamata, page 3, paragraph 47 and page 6, paragraph 83, noted that the music data is divided into smaller pieces of packet data).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate a method dividing the contents data into a plurality of pieces of data as taught by Kawamata in Hunter's invention in order to

reduce the transmission load on each channel as the data is being transmitted over to the downloading device.

With respect to **claim 2,** Hunter teaches the download system according to claim 1,

wherein the reservation information includes date and time information indicative of date and time when contents data reserved by the user of said terminal device is downloadable (Hunter, page 5, paragraph 55, and page 6, paragraphs 69-70), and

wherein said contents server transmits the reserved contents data to said downloading device when current date and time is later than the date and time defined by the date and time information included in the reservation information (Hunter, page 6, paragraph 72).

With respect to **claim 3,** Hunter teaches the download system according to claim 2,

wherein the reservation information is generated for each of the plurality of pieces of the contents data when the user of said terminal device reserves downloading of the single contents (Hunter, page 5, paragraph 55, and page 6, paragraphs 69-70, noted that the scheduled date and time is set when a user selects a scheduling transmission.),

wherein dates and times indicated by the date and time information of the reservation information of the plurality of pieces of contents data constituting the single content are the same (Hunter, page 6, paragraphs 69-70, noted that the date and time for the smaller packets of the music data is the same), respectively,

wherein dates and times of the reservation information of the plurality of pieces of

the contents are different for a plurality of pieces of the contents (Hunter, page 6,

paragraph 69, noted that the music data can be transmitted in three different time

period), and

wherein the contents server transmits the contents data corresponding to the

reservation information having the same date and time to said terminal device when

said terminal device is connected to said downloading device (Hunter, page 5,

paragraph 57 and page 9-10 paragraph 95, noted that the music is downloaded to the

memory of the terminal device).

However, Hunter does not explicitly teach a method that the plurality of pieces of

contents data constitute a single content.

In the same field of endeavor, Kawamata teaches a method dividing the music

data into a plurality of pieces of smaller data (Kawamata, page 3, paragraph 47 and

page 6, paragraph 83, noted that the music data is divided into smaller pieces of packet

data).

Therefore, it would have been obvious to a person of ordinary skill in the art at

the time of the invention to incorporate a method dividing the music data into a plurality

of pieces of smaller packet data as taught by Kawamata in Hunter's invention in order to

reduce the transmission load on each channel as the data is being transmitted over to

the downloading device.

With respect to **claim 4,** Hunter teaches the download system according to claim

1,

wherein the reservation information includes downloaded status information

indicating whether each contents data has been downloaded by the user of said

terminal device (Hunter, page 6, paragraph 72, noted that upon completion of

download, a message "YOU'VE GOT TUNES" will notify the user), and

wherein said contents server does not transmit the contents data to said

downloading device when the downloaded status information of the reservation

information indicates that the contents data has been downloaded by the user of said

terminal device (Hunter, page 3, paragraph 42 and page 7 paragraph 75, noted that the

music data is stored in user station so that customers have immediate on-demand

access to the music data, thus no music data needs to be downloaded from contents

server).

With respect to **claim 5,** Hunter teaches the download system according to claim

1,

wherein the reservation information is generated when the user of said terminal

device reserves the downloading of the single content with respect to each of the

plurality of pieces of contents data (Hunter, page 5, paragraph 55, and page 6,

paragraphs 69-70, noted that the scheduled date and time is set when a user selects a

scheduling transmission.),

wherein the reservation information includes date and time information indicating

date and time when the contents data has been reserved to be downloaded by the user

(Hunter, page 6, paragraph 69, noted that the music data can be transmitted in three

different time period) and downloaded status information indicating whether the

contents has been downloaded by the user of said terminal device (Hunter, page 6,

paragraph 72, noted that upon completion of download, a message "YOU'VE GOT

TUNES" will notify the user),

wherein the date and time information of the reservation information for the

plurality of pieces of contents data constituting a certain content are identical (Hunter,

page 6, paragraphs 69-70, noted that the date and time for the smaller packets of the

music data is the same), wherein date and time information of the contents data

constituting different contents are different from each other (Hunter, page 6, paragraph

69, noted that the music data can be transmitted in three different time period),

wherein said contents server transmits all the contents data having the earliest

date and time information of the reservation information from among the contents data

constituting a plurality of contents (Hunter, page 6, paragraph 72).

However, Hunter does not explicitly teach a method that the plurality of pieces of

contents data constitute a single content.

In the same field of endeavor, Kawamata teaches a method dividing the music

data into a plurality of pieces of smaller data (Kawamata, page 3, paragraph 47 and

page 6, paragraph 83, noted that the music data is divided into smaller pieces of packet

data).

With respect to **claim 6,** Hunter teaches the download system according to claim

4, wherein said downloading device transmits completion notification data notifying

completion of the downloading to said contents server after the contents data has been

transmitted to said terminal device (Hunter, page 7, paragraph 76).

With respect to **claim 7,** Hunter teaches the download system according to claim

1,

wherein said downloading device has a temporary storing area that temporarily

stores the contents data (Hunter, page 5, paragraph 57, and page 7, paragraph 75,

noted that the music data is temporarily stored in user station), and

wherein said downloading device deletes the contents data stored in said

temporary storing area after the contents data has been transmitted to said terminal

device (Hunter, page 5, paragraph 57 and page 9, paragraph 95, noted that the music

data is deleted after it is been transferred over to the portable player).

With respect to **claim 8**, Hunter teaches the downloading system according to

claim 1,

wherein said terminal device stores user identification information to be used to

identify the user (Hunter, page 10, paragraph 98, player ID),

wherein said downloading device reads the user identification information from

said terminal device when said terminal device is connected to said downloading device

and transmits the user identification information to said contents server (Hunter, page

10, paragraph 98, noted that the set top box/user station transmits the player ID to the

central server), and

wherein said contents server retrieves the reservation information from said

database server with reference to the user identification information (Hunter, page 10,

paragraph 98, noted that by using the player ID, central server sends the music key to

unlock the music data).

With respect to **claim 9,** Hunter teaches the download system according to claim 1,

wherein the contents data includes audio data (Hunter, fig. 1, noted the music/data content distribution and music content provider), and

wherein said terminal device includes a audio data reproducing device that reproduces audio signals from the audio data (Hunter, page 9, paragraph 95, noted that the music can be played on the portable player).

With respect to **claim 10,** Hunter teaches the download system according to claim 9,

wherein said downloading device transmits audio message data to said terminal device when there is no contents data to be downloaded (Hunter, page 5, paragraph 57 and page 9, paragraph 95), and

wherein said terminal device reproduces an audio message based on the received audio message data (Hunter, page 9, paragraph 95, noted that the music can be played on the portable player).

With respect to **claim 11,** Hunter teaches the download system according to claim 9,

wherein said downloading device transmits audio message data inquiring whether the contents data is to be downloaded to said terminal device before it downloads the contents data (Hunter, page 5, paragraph 56 and page 7, paragraph 76, noted that user can preview/listen to the music data before purchasing the music), and

wherein said terminal device reproduces an audio message based on the received audio message data (Hunter, page 9, paragraph 95, noted that the music can be played on the portable player).

With respect to **claim 13,** Hunter teaches a download system, comprising:

a contents server storing a plurality of pieces of contents data (Hunter, fig. 1, noted the music/data content distribution and music content provider);

a downloading device that exchanges data with said contents server through a predetermined network (Hunter, fig. 1, page 3, paragraph 42, and page 4, paragraph 50, noted that the user station 28 communicates with the music content provider via the central controller system 36), said downloading device being capable of downloading a desired one of the plurality of pieces of contents data (Hunter, page 4, paragraph 50, noted that the user station 28 downloads digital music content); and

a terminal device detachably connected to said downloading device (Hunter, pages 9-10, paragraph 95, noted the portable player), said terminal device being capable of receiving the desired one of the plurality of pieces of contents data from said downloading device,

wherein said downloading device has a temporary storing area that temporarily stores the contents data (Hunter, page 5, paragraph 57, and page 7, paragraph 75, noted that the music data is temporarily stored in user station), and

wherein said downloading device deletes the contents data stored in said temporary storing area after the contents data has been transmitted to said terminal

device (Hunter, page 5, paragraph 57 and page 9, paragraph 95, noted that the music

data is deleted after it is been transferred over to the portable player).

Regarding **claim 14**, the limitations of this claim are substantially the same as

those in claim 13. Therefore the same rationale for rejecting claim 13 is used to reject

claim 14. By this rationale **claim 14** is rejected.

With respect to **claim 15,** Hunter teaches a downloading device (Hunter, fig. 1,

page 3, paragraph 42, and page 4, paragraph 50, noted that the user station 28

communicates with the music content provider via the central controller system 36) for a

download system in which said downloading device downloads contents data from a

contents server (Hunter, fig. 1, noted the music/data content distribution and music

content provider) through a predetermined network, a terminal device (Hunter, pages 9-

10, paragraph 95, noted the portable player) capable of receiving the contents data from

said downloading device being detachably connected to said downloading device, user

identification information used for identifying a user of the terminal device being stored

in the terminal device (Hunter, page 10, paragraph 98, noted the player ID), said

downloading device comprising:

a retrieving system that retrieves the user identification information from the

terminal device when the terminal device is connected to said downloading device

(Hunter, page 10, paragraph 98, noted that the user station transmits the player ID to

the central server, it implies that the user station has to retrieve the player ID from the

portable player first); and

a transmitting system that transmits the user identification information to the contents server before said downloading device downloads the contents data from the contents server (Hunter, page 10, paragraph 98, noted that the set top box/user station transmits the player ID to the central server).

With respect to **claim 16,** Hunter teaches a downloading device for a download system in which said downloading device downloads contents data from a contents server through a predetermined network, a terminal device capable of receiving the contents data from said downloading device being detachably connected to said downloading device, the contents data including audio data, the terminal device including an audio signal reproducing device, said downloading device comprising:

an audio message data generating system that generates audio message data indicating there is no downloadable data when there is no downloadable contents data in the contents server (Hunter, page 5, paragraph 57 and page 9, paragraph 95); and

a data transmitting system that transmits the audio message data generated by said audio message data generating system to the terminal device (Hunter, page 9, paragraph 95, noted that the music is transmitted to the portable player).

With respect to **claim 17,** Hunter teaches a downloading device for a download system in which said downloading device downloads contents data from a contents server through a predetermined network, a terminal device capable of receiving the contents data from said downloading device being detachably connected to said downloading device, the contents data including audio data, the terminal device including an audio signal reproducing device, said downloading device comprising:

an audio message data generating system that generates audio message data

inquiring whether the contents data is to be downloaded before the downloading device

downloads the contents data from the contents server (Hunter, page 5, paragraph 56

and page 7, paragraph 76, noted that user can preview/listen to the music data before

purchasing the music); and

a data transmitting system that transmits the audio message data generated by

said audio message data generating system to the terminal device (Hunter, page 9,

paragraph 95, noted that the music is transmitted to the portable player).

13.   **Claims 12 and 18 are** rejected under 35 U.S.C. 103(a) as being unpatentable

over **Hunter et al. (publication no.: US 2006/0229904 A1)** in view of **Kawamata et al.**

(publication no.: US 2002/0025777 A1) and further in view of Official Notice.

With respect to **claim 12,** Hunter teaches the download system according to

claim 9,

wherein said downloading device generate a message data notifying the

contents has been downloaded to said terminal device after all of the plurality of pieces

of contents data have been transmitted to said terminal device (Hunter, page 6,

paragraph 72, noted the message "YOU'VE GOT TUNES".), Hunter also teaches

previewing of the music data before the purchase is made by the customers with the

audio speak system (Hunter, page 5, paragraph 56) and the scheduled time for the

music data to be transmitted to the downloading device (Hunter, page 6, paragraph 72).

Hunter fails to disclose a method of notifying the customer the completion downloading

of the music data. Official Notice is taken that the sending an audio notification message to a user with an audio speaker system was well known in a computer to one of ordinary skill in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of sending an audio notification message to a user with an audio speak system in notifying the date and time of the completion downloading of the music data. The advantage of incorporating this method is to provide a friendly interface in notifying the user while the user is in the midst of working on other applications.

Hunter also fails to explicitly teach a method that the plurality of pieces of contents data constitute a single content.

In the same field of endeavor, Kawamata teaches a method dividing the music data into a plurality of pieces of smaller data (Kawamata, page 3, paragraph 47 and page 6, paragraph 83, noted that the music data is divided into smaller pieces of packet data).

With respect to **claim 18,** Hunter teaches a downloading device for a download system in which said downloading device downloads contents data from a contents server through a predetermined network, a terminal device capable of receiving the contents data from said downloading device being detachably connected to said downloading device, the contents data including audio data, the terminal device including an audio signal reproducing device, a plurality of pieces of contents data comprising a single content, said downloading device comprising:

A message data generating system that generates message data notifying the contents has been downloaded to said terminal device after all of the plurality of pieces of contents data have been transmitted to said terminal device (Hunter, page 6, paragraph 72, noted the message "YOU'VE GOT TUNES".), Hunter also teaches previewing of the music data before the purchase is made by the customers with the audio speak system (Hunter, page 5, paragraph 56) and the scheduled time for the music data to be transmitted to the downloading device (Hunter, page 6, paragraph 72). Hunter fails to disclose a method of notifying the customer the completion downloading of the music data. Official Notice is taken that the sending an audio notification message to a user with an audio speaker system was well known in a computer to one of ordinary skill in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of sending an audio notification message to a user with an audio speak system in notifying the date and time of the completion downloading of the music data. The advantage of incorporating this method is to provide a friendly interface in notifying the user while the user is in the midst of working on other applications; and

a data transmitting system that transmits the audio message data generated by said audio message data generating system to the terminal device (Hunter, page 9, paragraph 95, noted that the music is transmitted to the portable player).

Conclusion

14.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure:

- Horis et al. (patent no.: US 6,792,280 B1) discloses a method of scheduling an

    information delivery from one cellular phone to another phone.

- Higuchi et al. (publication no.: US 2003/0050050 A1) discloses a data distribution

    terminal.

- Rolf (patent no.: US 7,065,342 B1) discloses a mobile cell phone device for

    playing recorded music.

15.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Lin Liu whose telephone number is (571) 270-1447.

The examiner can normally be reached on Monday - Friday, 7:30am - 5:00pm, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Jason Cardone can be reached on (571) 272-3933. The fax phone number

for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

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USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

L.Liu
07/19/2007

JASON CARDONE
SUPERVISORY PATENT EXAMINER